

REMARKS / ARGUMENTS

Remaining Claims

Sixteen (16) claims (Claims 1, 3 – 10, and 12 – 18) remain pending in this application.

Rejection of Claims 1, 3, 6, 16 and 17 under 35 USC §103(a) – Martin and Ono

Claims 1, 3, 6, 16 and 17 were rejected by the Examiner as being unpatentable over Martin in combination with Ono.

Regarding claims 1 and 16, the Examiner relies on Ono for disclosure of a “UV ray lamp 8 including a light emitting part surrounded by optical fibers.” Claim 1 has been amended to include high UV illumination and rapid crosslinking. With regard to the Martin reference, the process described is a two-step illumination process. The focus of such a process, therefore, is not rapid crosslinking but rather, as the Martin specification discloses an “apparatus and method for partially curing...” It does not appear that the Ono reference cures this deficiency. The examiner states that it would have been obvious to one of skill in the art to modify the optic-based UV light system of Martin by providing a optical fibers surrounded by the lamp as taught by Ono. Even though Ono can be modified, the art must suggest the modification, which it does not. *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1983). Ono, in fact, teaches away from the present invention by requiring less intensity.

Applicants assert that such a combination would not have been obvious, due to the fact that such a modification is not simple, as shown in the specification of the present application.

Due in particular to the radial arrangement of the optical fibres 3 in relation to the longitudinal axis of the UV lamp 2, a high proportion of the radiation emitting from the UV lamp 2 can be coupled into the optical fibres 3 and thus used for crosslinking. The maximum number of optical fibres that can be used is dependent on the diameter of the UV lamp 2 and the distance to the UV lamp. In addition, there is advantageously a sensor 5, which measures the intensity of UV radiation. It is located near to the UV lamp 2. The measurement is passed on to a regulating unit 6 which compares the measured intensity of radiation with a theoretical value and regulates the current intensity I to keep it constant. In addition, a cool stream of air 7 is provided to cool the UV lamp 2. It is passed from the cold components over the hot components by means of an appropriate

construction of the housing 16, or by a ventilator 22, respectively. The air stream is controlled by one or more temperature sensors 8 which measure the temperature inside the housing. The cool air stream ensures that the UV lamp 2 burns at an optimum temperature and that the components in the housing of the lamp do not become overheated. In this way, constant operating conditions are assured, which also prolong the life of the UV lamp 2.

The modification suggested by the Examiner uses hindsight, which is improper. For this reason, Applicants respectfully request that the rejections made to claim 1 be reconsidered and withdrawn.

Claims 3, 6, and 17 all depend from claim 1 and as such the same arguments apply. With specific regard to claim 6, it would not have been obvious to combine Martin and Ono to obtain an optimum value, as shown above, by the complexity of the present invention. The requisite motivation to combine these references must come from the prior art, not the Applicant's specification. *In re Dow Chem. Co.*, 837 F.2d 469, 473, 5 USPQ.2d 1529, 1531-1532 (Fed. Cir. 1998). Martin nor Ono provide no motivation for their combination.

The Examiner rejected claim 4 as being unpatentable over Martin in view of Ono and further in view of Biller. Biller does not remedy the deficiencies of Martin and Ono. Because claim 4 depends from claim 1, which should now be found allowable, the Applicants respectfully request that these rejections be reconsidered and withdrawn.

The same arguments apply to claims 5, 7, 8, and 12-14. These claims depend from claim 1 and as such the combination of Martin and Ono cannot render the present invention obvious. The Examiner has also cited the Nath reference, stating that Nath "discloses a flexible liquid light guide." Nath discloses a light guide designed for use within the human body, not lighted light fibers as used in the present invention; hence the rejection is improper. Because Nath is primarily directed to a medical instrument, it would not have been obvious to one of skill in the art to use technology related to a light guide to rapidly polymerize material to create a contact lens. Moreover, there is clearly no teaching in Nath to use its light guide to cure ophthalmic material. Nor is there a teaching in any other reference to combine it with Nath. The Federal Circuit has pointed out that "While [the prior art]" apparatus may be capable of being modified to run the way

[applicant's] apparatus is claimed, there must be a suggestion or motivation in the reference to do so. " *In re Mills*, 916 F.2d at 682, 16 U.S.P. Q.2d at 1432.

Regarding claims 9 and 10, the combination of Martin, Ono, and Gonser (the '344 reference) would not have been obvious to one of skill in the art, nor is there a teaching or suggestion to combine these references, despite the Examiner's most recent assertions. Primarily, one of skill in the art would not have knowledge of dentistry and dentistry applications. (Gonser is directed to applications that are "biologically safe for applications in dentistry" '344 patent, col. 2, line 7.) Moreover, as stated previously, looking at Gonser in combination with Martin and Ono would not have taught one of ordinary skill in the art the present invention. For the reason stated above, none of the references in combination would have been obvious, but for use of hindsight, which is not permissible.

Regarding claim 15, there is no teaching or suggestion to combine this reference with Ono or Martin. Primarily, the Sopori reference is related to a solar stimulator that is designed to produce the entire solar spectrum for testing purposes and provides no basis for a modification with the other references to create the present invention. Applicants respectfully request that this rejection be reconsidered and withdrawn.

CONCLUSION

In view of the foregoing and in conclusion, Applicants submit that the 35 USC § 103 rejections set-forth in the Office Action have been overcome, and that the pending claims are not anticipated by or obvious over the cited art, either individually or in combination. Applicants request reconsideration and withdrawal of the rejection(s) set-forth in the Office Action.

Should the Examiner believe that a discussion with Applicants' representative would further the prosecution of this application, the Examiner is respectfully invited to contact the undersigned. Please address all correspondence to Robert Gorman, CIBA Vision, Patent Department, 11460 Johns Creek Parkway, Duluth, GA 30097. The Commissioner is hereby authorized to charge any other fees which may be required under 37 C.F.R. §§1.16 and 1.17, or credit any overpayment, to Deposit Account No. 50-2965.

Respectfully submitted,



Karen Borrelli
Karen Borrelli
Reg. No. 52,638
(678) 415-3690

Date: 17 August 2005
CIBA Vision
Patent Department
11460 Johns Creek Parkway
Duluth, GA 30097